

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jason Chesley,
Appellant,

v.

Polk County Board of Review,
Appellee.

ORDER

Docket No. 13-77-0701
Parcel No. 04698-000-000

On January 24, 2014, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Jason Chesley was self-represented and requested his appeal be considered without hearing. Assistant County Attorneys Ralph Marasco, Jr. and David Hibbard represent the Board of Review. The Appeal Board now, having examined the entire record and being fully advised, finds:

Findings of Fact

Jason Chesley is the owner of residential property located at 429 6th Street, West Des Moines, Iowa. Its January 1, 2013, assessment was \$99,200, representing \$24,300 in land value and \$74,900 in improvement value. Chesley protested to the Polk County Board of Review on the ground that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1). The Board of Review denied the protest.

Chesley then appealed to this Board reasserting his claim. Chesley asserts the correct value is \$82,400, representing \$24,300 in land value and \$58,100 in improvement value.

According to the property record card, Chesley's property is a one-story, frame home built in 1910. It has 1288 square feet of above-grade living area and a 300 square-foot, unfinished attic. The property also has a 92-square-foot, open porch; a 512-square-foot deck; and a 324-square-foot,

attached garage. The subject property is listed as being of average quality grade (4-10) and in above-normal condition. The subject site is 0.166 acres.

Chesley provided information on five properties he considered comparable for his equity claim.

The following chart summarizes the property data he provided.

Address	Assessed Value	TSFLA	Square Foot Assessment
Subject	\$99,200	1288	\$77.01
112 3rd Street	\$69,900	1148	\$60.88
425 6th Street	\$77,800	1096	\$70.99
102 11th Street	\$83,600	1248	\$66.99
525 3rd Street	\$85,200	1088	\$78.31
433 6th Street	\$87,000	1710	\$50.88

All of the properties are located in the same neighborhood area of West Des Moines (WD09/Z), were built between 1908 and 1910, are similar to Chesley's dwelling in construction quality grade, and have similar site size. However, the comparable properties are in normal and below-normal condition, whereas Chesley's property is in above-normal condition. Additionally, Chesley's property, unlike the comparable properties, has an attached garage. These differences likely would account for his higher assessment. The property with the lowest assessment, 433 6th Street, is a two-story and much larger than the subject. For these reasons, it is not reasonably comparable to the subject. Eliminating that property from consideration, the assessments range from \$60.88 to \$78.31 per square foot and the subject property's assessment per square foot is at the upper end of the range.

Even though Chesley's assessment per square foot is at the higher end of the range, we note this is not a typical method of showing inequity. Typically, inequity is shown by completing an assessment/sales ratio analysis. To complete the analysis, prior year sales prices (2012) must be compared to current assessments (2013). In this case, only two of the properties Chesley listed recently sold. We have already determined one of these was not reasonably comparable. Thus, only the property located at 425 6th Street remains for an equity comparison, which is not sufficient for

analysis. This property sold in February 2013 for \$86,000, which would result in an assessment/sale ratio of 0.90 (a ratio less than 1.00 indicates under-assessment and over 1.00 indicates over-assessment). This is insufficient evidence to support Chesley's claim of inequitable assessment.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

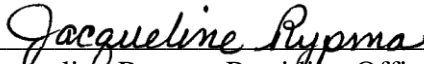
“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

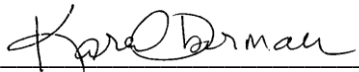
Chesley provided five properties he considered similar for equity comparison; however, only two properties recently sold and of these, only one was comparable to his. One comparable property is insufficient for an equity analysis. § 441.37(1)(a)(1); *Montgomery Ward Dev. Corp. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992), *overruled on other grounds by Transform, Ltd. v. Assessor of Polk County*, 543 N.W.2d 614 (Iowa 1996). This “statutory requirement is both a jurisdictional prerequisite and an evidentiary requirement for bringing a claim of inequitable or discriminatory assessment before the board.” *Id.* Alternatively, Chesley did not assert the assessor applied different methods of assessments to similar properties. Thus, Chesley failed to prove his property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests.

THE APPEAL BOARD ORDERS the assessment of the Chesley's property located at 429 6th Street, West Des Moines, Iowa, is affirmed with a total value of \$99,200 as of January 1, 2013.

Dated this 20th day of February 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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